EXPLANATORY MEMORANDUM TO

COUNTY COURT (AMENDMENT) RULES (NORTHERN IRELAND) 2017

S.R. 2017 No. 19

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 47 of the County Courts (Northern Ireland) Order 1980 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule will amend Appendix 2 of the County Court Rules (Northern Ireland) 1981 to amend and update the scale costs payable to solicitors and barristers in proceedings in the county court following a review carried out by the County Court Rules Committee.

3. Background

3.1. The Scale Costs set out the legal costs payable in county court proceedings. They are fixed, according to the value and type of proceedings, and all legal representatives must use them to bill their clients for the work they undertake in the County Court.

3.2. The Scale Costs are prescribed in Appendix 2 of the County Court Rules (Northern Ireland) 1981

3.3. The County Court Rules Committee is a statutory Committee responsible for making secondary legislation (court rules) prescribing the practice and procedures of the county court and including the costs payable. All rules made by the Committee are subject to being allowed by your Department after consultation with the Lord Chief Justice.

4. Consultation

4.1. The County Court Rules Committee consulted on a review of scale costs and recent practice and procedural changes in the county court which was the first review from the increase in county court jurisdiction in 2013 from £15,000 to £30,000.

4.2. The consultation launched in March 2016 with a summary provided to the County Court Rules Committee in June 2016.

4.3. There were 12 responses to the consultation; six from legal professions, three from insurance bodies, two from public sector and one from a High Court Judge. The recommendations for the proposed amendments had overall support from the respondents.

4.4. Consultation with the Justice Committee took place in relation to the proposed Statutory Rule in January 2017.

4.5. The Department was also consulted on the Rule as was the Lord Chief Justice in accordance with its statutory duty under Article 47 of the County Courts (Northern Ireland) Order 1980.

5. Equality Impact

5.1. Equality implications were considered and an equality impact assessment was consulted on at the same time as the review. The outcome was that this change would have the same impact upon all groups equally as it was an inflationary increase.

6. Regulatory Impact

6.1. Not necessary to carry out a regulatory impact assessment as it is an inflationary increase that is being considered.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The scale costs are used for privately funded legal services within the county court. There are no direct financial implications to the Department.

8.2. Approximately 5% of county court cases are funded by legal aid. The Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 currently provides for lawyers in legally aided cases to be paid the same rates as those prescribed in the county court scale costs. Adjusting the fees in the 2015 Order to maintain parity with scale costs would result in additional pressure on the legal aid fund in the region of £50,000 per annum. The Department will consider any increase to the 2015 Order in the wider context of legal aid expenditure.

9. EU Implications

9.1. None.

10. Parity or Replicatory Measure

10.1. The county court procedures are different in the other jurisdictions

11. Additional Information

11.1. None.